

JUDGE HELLERSTEIN

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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NORTH JERSEY MEDIA GROUP INC., :

Plaintiff, :

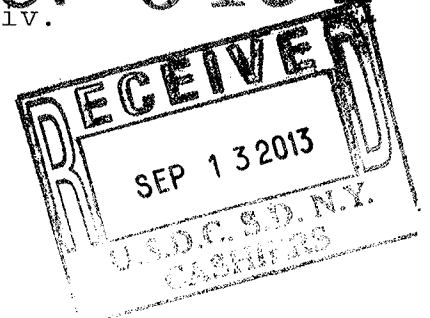
-against-

13 CV 6494
13 Civ.

SARAH PAC AND SARAH PALIN, :

Defendants. :

- - - - -x



COMPLAINT AND JURY DEMAND

Plaintiff North Jersey Media Group Inc. ("NJMG"), by its undersigned attorneys, for its complaint against defendants Sarah PAC and Sarah Palin, alleges:

Nature of the Action

1. NJMG is bringing this action to enforce its copyright in its iconic photograph of the September 11, 2001, flag raising at the World Trade Center site.

Jurisdiction and Venue

2. This Court has subject matter jurisdiction over the claim in this action pursuant to 28 U.S.C. §§ 1331 and 1338 because it arises under the Copyright Act, 17 U.S.C. § 101 et seq.

3. Upon information and belief, venue is proper in this District pursuant to 28 U.S.C. §§ 1391 and 1400(a).

4. Defendants, upon information and belief, are subject to the personal jurisdiction of this Court pursuant to C.P.L.R. §§ 301 and/or 302.

Parties

5. NJMG is a corporation organized and existing under the laws of the State of New Jersey, with its principal place of business in Woodland Park, New Jersey. NJMG is engaged in the business of news reporting.

6. It publishes two daily publications, *The Record* and *Herald News*, which have a daily circulation of approximately 151,000 and a Sunday circulation of approximately 175,000. It publishes more than forty weekly community newspapers, which have a combined circulation of approximately 630,000. It publishes twelve magazines, which have a circulation of approximately 350,000. It publishes two websites, www.northjersey.com, and www.Bergen.com, which have approximately 11.5 million and 750,000 page views per month, respectively.

7. SarahPAC is a federally registered political action committee with its principal place of business in Arlington, Virginia.

8. Upon information and belief, Sarah Palin is a natural person and a resident of Alaska. Upon information and belief, Sarah Palin is the principal of SarahPAC.

NJMG'S COPYRIGHT

9. On or about September 11, 2001, an employee of NJMG, acting within the scope of his employment, took a photograph of the three firefighters raising the American flag on the ruins of the World Trade Center site (the "WTC Flag Raising Photograph"). A copy of the photograph is annexed as Exhibit A. The WTC Flag Raising Photograph has become an iconic image that has received international attention. Because an employee of NJMG took the WTC Flag Raising Photograph while acting within the scope of his employment, it is a "work made for hire" as defined by § 101 of the Copyright Act. NJMG is therefore the sole owner of the copyright in the WTC Flag Raising Photograph.

Palin's Infringing Acts

10. Defendants have, without permission, posted a copy of the WTC Flag Raising Photograph on their web pages, including at least www.sarahpac.com, a copy of which is annexed as Exhibit C, and www.facebook.com/sarahpalin, a copy of which is annexed as Exhibit D.

CLAIM FOR RELIEF

(Copyright Infringement - 17 U.S.C. § 501)

11. NJMG repeats the allegations in paragraphs 1 through 10 as if set forth in full.

12. NJMG owns, registered and received the United States Certificate of Copyright Registration No. VA 1-014-297 for

the WTC Flag Raising Photograph ("WTC Flag Raising Copyright"). A copy of the certificate is annexed as Exhibit B.

13. NJMG's WTC Flag Raising Copyright is valid and enforceable.

14. Defendants have infringed NJMG's WTC Flag Raising Copyright in violation of 17 U.S.C. § 501 by using it to promote Sarah Palin, and to raise money for SarahPAC.

15. Defendants' acts have irreparably damaged and, unless enjoined, will continue to irreparably damage NJMG. NJMG has no adequate remedy at law for these wrongs and injuries. NJMG is, therefore, entitled to a preliminary and permanent injunction restraining and enjoining defendants and their agents, servants, employees, and attorneys and all persons acting in concert with them, from infringing NJMG's WTC Flag Raising Copyright.

16. Defendants have willfully infringed NJMG's WTC Flag Raising Copyright.

17. NJMG is entitled to recover damages sustained as a result of Palin's unlawful conduct including (1) Palin's profits, or (2) NJMG's losses, or alternatively at NJMG's election, (3) statutory damages.

WHEREFORE, NJMG demands judgment:

A. Preliminarily and permanently enjoining defendants, their agents, servants, employees, and attorneys and

all those acting in concert with them from infringing NJMG's WTC Flag Raising Copyright in violation of 17 U.S.C. § 501;

B. Awarding NJMG its damages or defendants' profits, or alternatively, at NJMG's election, statutory damages, as a result of Palin's infringement of NJMG's WTC Flag Raising Copyright.

C. Awarding NJMG its costs in this action, including its reasonable attorneys' fees pursuant 17 U.S.C. § 505; and

D. Granting such other and further relief as to this Court seems just and proper.

Jury Trial Demand

Pursuant to Rule 38 of the Federal Rules of Civil Procedure, NJMG hereby demands a trial by jury of all issues that are so triable.

Dated: New York, New York
September 13, 2013

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